IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.422 OF 1998

The Commissioner of Income-tax,
Bombay City - V, Bombay .. Applicant.
V/s.
M/s.Ethnor Ltd. .. Respondent.

Mr.Parag Vyas for the applicant.
Mr.S.S. Shetty for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court reading as under :-

> 1. Whether in the facts and in the circumstances of the case, the Tribunal erred in holding that reimbursement of medical expenses should be excluded for the purpose of disallowance u/s.40A(5) ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal erred in holding that surtax payable by the assessee for the assessment year 1981-82 was not a deductible expenditure in arriving at the assessee's total income for the said assessment year ?

2. So far as question No.1 is concerned, the learned counsel for the Revenue fairly states that the issue is already answered by the Apex Court in the case of **CIT V/s. Mafatlal Ganggabhai & Co. (P) Ltd. [(1994) 219 ITR 644 (SC)]** in favour of the

assessee and against the revenue.

3. As regards question No.2 is concerned, the learned counsel for the revenue fairly states that the issue has already been answered by the Apex Court in the case of **Smith Kline & French (I) Ltd. V/s. CIT [(1996) 219 ITR 581 (SC)]** in favour of the revenue and against the assessee.

4. In this view of the matter, questions stand answered accordingly for the reasons stated in the cases cited supra.

5. Reference, accordingly, stands disposed of with no order as to costs.

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